IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

Crl.MC.No. 142 of 2007()

AGAINST THE ORDER IN LP 60/2004. IN
CC.410/2002 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PALAKKAD
CRIME NO. 3/02 OF PALAKKAD TOWN NORTH POLICE STATION

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PETITIONER: ACCUSED:

NARAYANA DAS ALIAS DEVADAS,
AGED 38 YEARS, S/O.NARAYANAN MENON,
PARAMBATH HOUSE, JAYANTHI ROAD,
MARADU DESOM, KANAYANNOOR TALUK,
MARADU VILLAGE.

BY ADV. SRI.GEORGE SIMON

RESPONDENTS:

S.H.O.PALAKKAD TOWN NORTH POLICE
STATION, REPRESENTING THE STATE OF KERALA
BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 142 of 2007

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Dated this the 17th day of January, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 379 r/w. 34 I.P.C. The case was initially registered as Crime No.3 of 2002 and later as C.C.No.410 of 2002. Consequent to the non-availability of the petitioner, the case against him was transferred to the list of long pending cases and is now pending before the learned Magistrate as L.P. 60 of 2004.

2. The petitioner now wants to surrender before the learned Magistrate. The learned counsel for the petitioner submits that the petitioner has valid reasons to explain why he could not appear before the learned Magistrate earlier. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail and to expeditiously dispose of the case against him.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons. Needless to say, every effort must be made by the learned Magistrate to expeditiously dispose of the case.

Sd/-

(R. BASANT)
Judge

tm //true copy// P.S. to Judge